



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

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**September 10<sup>th</sup>, 1997**

Minutes of the September 10<sup>th</sup>, 1997 meeting of the Commission on Governmental Ethics and Election Practices held in Room 122 of the, State Office Building, Augusta.

Present: Chairman Peter B. Webster: members Linda W. Cronkhite, Harriet P. Henry, G. Calvin Mackenzie, Merle R. Nelson: Interim Counsel Paul Stern; Director Marilyn Canavan

At 9:05 a.m., Chairman Webster called the meeting to order. First, under routine business, Mr. Webster moved, and it was seconded, to accept the minutes of the August 13 meeting as written. The motion was voted.

Under old business, the Commission voted to remove from the table Item #2: the findings of the staff with respect to its investigation of the financing of Ms. Annette Hoglund's 1996 election campaign through games of chance.

The staff found that in July 1996, Ms. Hoglund applied to the Department of Public Safety (DPS) for a license to conduct games of chance; that the license was granted and later renewed in November 1996 and February 1997; that the license covered both "beano" and "sealed ticket" names; that the applications named Ms. Hoglund as the "person responsible for operation of . . . the games" and the "Committee to Elect Annette Hoglund" (CEAH) as the organization with which Ms. Hoglund is affiliated. The staff also reported that by-laws accompanying the application stated the purpose of the names is to "raise funds necessary for the election of Annette Hoglund to the Maine House of Representatives, as well as to provide funds for other political candidates." Findings further revealed that from July 1996 through June 1997, CEAH filed monthly reports of receipts and expenditures with DPS in which the Committee disclosed that it grossed a total of \$1,058,999.52 and that of that amount, spent a total of \$769,969.10 on cash prizes and \$284,050.04 on other expenses.

The staff further reported that Ms. Hoglund's campaign committee registered with the Commission in April 1996: that CEAH filed four election year reports with the Commission and one off-election year report; that the reports listed a total of \$18,687 in receipts from games of chance through December 10<sup>th</sup>, 1996 and an additional \$48,256.02 in receipts from the games from December 11<sup>th</sup>, 1996 through June 30<sup>th</sup>, 1997. The staff noted, additionally, that CEAH continues to stage beano games despite the fact that its 1996 campaign debts are retired and that Ms. Hoglund has not, to date, registered as a 1998 candidate.

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Mr. William Cote was present and represented Ms. Hoglund. He said that Ms. Hoglund was prepared to report all utune-related receipts and expenditures in any format the Commission desired: but that he believed she hid already reported the transactions in the most intelligible way; i.e., by disclosing to the Commission only the net proceeds realized from the names.

In the discussion that ensued, a number of questions were raised involving the planning and management of the games including:

- 1) whether CEAH's name was used to promote the games,
- 2) the cost of the tickets, and
- 3) whether funds for the two types of games were segregated.

In response Mr. Cote said that signs displayed at the beano hall and tickets sold at the door carried the name of Ms. Hoglund's campaign committee; that the cost of a standard packet sold to players was \$10; and that money collected from "sealed ticket" games was allocated to one account, and money from "beano" to another.

Asked how CEAH agents were able to determine which funds were allocable campaign contributions, Mr. Cote said it was his understanding that CEAH agents first tallied the gross from both games; then deducted expenses, including prize money hall rental, general administration fees, and overhead; and that whatever remained i.e., the surplus as then allocated to Ms. Hoglund's election campaign committee.

At the conclusion of the discussion, Mr. Mackenzie moved to table the matter until the next meeting and further moved that Mr. Cote be asked to prepare and present to the Commission a legal brief containing the following information:

- 1) the statutory basis for the position held by Ms. Hoglund's campaign committee with respect to the reporting of contributions derived from a fund-raiser; i.e., that the reporting of net proceeds satisfies legal requirements;
- 2) a description of how the accounts for beano and games of chance are managed
- 3) the process whereby CEAH determines how funds are to be allocated to Ms. Hoglund's campaign committees and
- 4) the juncture at which the funds allocated are considered to be campaign contributions.

The motion was seconded and voted whereupon Mr. Cote agreed to supply the information requested. The Commission then asked that Ms. Hoglund provide to the Commission a copy of the tickets sold at the door and a copy of the campaign communications that were displayed at the hall in which the games were held. The motion was seconded and voted.

Next, the Commission considered the request of the American Insurance Association (AIA) political action committee (PAC) for relief from the penalty assessed for a late quarterly report. Findings were that the report arrived in the Commission office 6 calendar days late, and that the penalty accrued therefrom was \$300. Findings further indicated that AIA officials mailed the report via FedEx on July 9<sup>th</sup> that the report was delivered by courier to the State Office Building on July 10<sup>th</sup>, and that because the report was left in the wrong office (Room 120), it did not make



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it to the Commission office (Room 114) until July 21<sup>st</sup>, 1997. Mr. Bruce Gerrity was present and represented AIA. He argued that AIA officials had made a good faith effort to file the report in a timely fashion that the error resulting in the late filing was not of their making and hence they should not be penalized. At the conclusion of his remarks, Judge Henry moved, and it was seconded, to waive the penalty in full. The motion was voted.

The Commission then reviewed the late semiannual report of the Oxford County Republican Committee (OCRC). The staff reported that OCRC filed the report 6 calendar days late, thus incurring a penalty of \$234.90. Ms. Freda Truman was present and represented the Committee. She asked that the penalty be waived, explaining that she had just taken on the job of treasurer, had received no training, and was unaware of the legal requirements. She said that when she learned the report was due, she faxed it immediately. The staff reported that OCRC had filed late once before, though not during Ms. Truman's term of office. On that basis, Mr. Mackenzie moved that the Commission accept the staff recommendation calling for a penalty of \$23.00. Judge Henry seconded, and the motion was voted.

Next, the Commission considered the late semiannual report of the Lincoln County Democratic Committee (LCDC). The staff reported that LCDC submitted the report one day late and that the penalty accrued there from was \$41.50. Mr. Mackenzie moved that the Commission assess a \$5 penalty, as recommended by the staff. Judge Henry seconded and the motion was voted.

The next item considered was the request of lobbyist Richard Davies for relief from the penalties assessed for his late August disclosure reports (for the month of July). Findings showed the reports were filed 7 business days late; that the penalty accrued there from was \$700 and that the reports in question were submitted on behalf of the following groups:

Ind. Energy Consumer Group  
ME Community Action Assn.  
ME Gaming Assn.  
MultiState Assoc./Viaticus Inc.  
Northern Utilities, Inc.  
Portland Pipeline System  
Save Downtown Calais

Mr. Davies was present and represented himself. He said that he had prepared his May and June monthly disclosure reports together with his non-session waiver form; that he thought he had submitted the documents together but later learned the waiver form was not on file with the Commission; that consequently, when he failed to file the June report he received a late notice from the Commission. He said he had retained a copy of the non-session waiver request but simply could not explain how the original could have been lost "between his typewriter and the Commission office." He said he conducted no activity during the month of July and thus had nothing to "hide" by withholding the report. Mr. Mackenzie moved that the Commission reduce Mr. Davies' penalty to \$150, this being his first violation. Judge Henry seconded, and the motion was voted.



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Next, the Commission considered the request of lobbyist Joanne D'Arcangelo for relief from a \$100 penalty assessed for her late monthly disclosure report. Findings indicated the report was due April 15<sup>th</sup>, that it arrived in the Commission office on April 16<sup>th</sup>, and that the envelope in which the report was sent was postmarked April 15<sup>th</sup>. Findings also showed that Ms. D'Arcangelo had filed late on one other occasion. Ms. D'Arcangelo was present and represented herself. She said she mailed the report on April 14, the postmark notwithstanding. She then suggested that the Commission adopt the policy of other government agencies in determining the timeliness of a report- i.e., that it accept the postmarked date as the filing date. At the conclusion of her remarks, Mr. Mackenzie moved, and it was seconded that the penalty stand on the basis that Ms. D'Arcangelo had filed late once before. The motion was voted.

Judge Henry then moved that the Commission enter into executive session to discuss the status of the actions brought concerning, the Clean Election Act, and to continue its discussion of a possible ethics violation. The motion was seconded and voted.

At 10:30 a.m. a brief recess was called.

At 10:45 a.m. the Commission reconvened in regular session whereupon a motion as made to issue a subpoena to the Legislator whose behavior had undergone review in executive session. The motion was seconded and voted.

Next, the Commission considered a draft amendment to the financial disclosure laws prepared by the staff. Mr. Mackenzie moved that the matter be tabled until the next regular session, but that a title be submitted to the Revisor's office to "reserve" a slot for the bill since cloture was fast approaching. The motion was seconded and voted.

The next item to undergo review was the Commission's draft study report prepared at the request of the Joint Standing Committee on Legal and Veterans' Affairs. Mr. Mackenzie moved that the Commission adopt the report in its final form submit it to the Legal Affairs Committee, and recommend its passage. Thereupon Judge Henry said she would be disinclined to approve such action unless it could be shown the commission had the means to administer the laws proposed in the report. At that, Mr. Mackenzie agreed to amend his motion such that the Commission's recommendation be conditioned on its receiving the resources needed to administer executive branch ethics. The motion was seconded and voted.

Next, the Commission discussed briefly the staff's proposal on "stakeholder" meetings. Asked whether the meetings might compromise the integrity of the rule-making process, Counsel Stern answered in the negative. He then suggested that participants be informed at the outset that the purpose of the meetings is to gather information; and that the meetings are outside the formal rule-making process. There followed a brief discussion of the proposal in which questions were raised as to whether the hiring of a facilitator is governed by procurement laws and what format should be followed in conducting the meetings. The staff agreed to research the issues raised and to compile and submit findings at the next regular meeting.



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Next, Mr. John Brautigam, a member of Maine Citizens for Clean Elections, discussed briefly a draft time-line he had prepared to assist the Commission in implementing rules. He said the time-line was organized in clusters to lend direction and decimation to the process.

The Commission then turned its attention to the request of candidate Joseph Perry for relief from the penalty assessed for his post-election report. Findings indicated that Mr. Perry filed the report 21 days late; that the penalty accrued therefore was \$1,685.46; and that Mr. Perry had filed late once before. On reviewing Mr. Perry's written statement, members concluded that the reasons given for filing late were not sufficiently significant to warrant the granting of a waiver. Mr. Mackenzie thus moved that the full penalty be assessed.

The motion failed, there being no second. Thereupon, Judge Henry moved that Mr. Perry be assessed a penalty of \$1,000. Mr. Mackenzie seconded and the motion carried 3-0-2, Ms. Cronkhite and Ms. Nelson abstaining.

A question was then raised as to advisability of the Commission establishing a policy to guide it in assessing penalties. It was suggested that the implementation of a well-crafted formula-based policy might result in greater consistency and less arbitrary decision making in determining penalties. While the idea was positively received, no action was taken.

Next, the Commission considered the written requests of the following lobbyists seeking relief from late penalty fees. Mr. Mackenzie moved, and it was seconded and voted, that the following penalties be assessed:

Lobbyist name/ employer	Date report filed	Date due	Penalty incurred	Penalty assessed
Raymond G. Long II /Assn.of Intl. Auto Manufacturers	5/15/97	5/21/97	\$100	\$50 (no previous violation)
Lisa Lumbra/Recreational Motor Sports Association	7/15/97	7/21/97	\$100	\$100 (I previous violation)
Barry Hobbins/ Van.auard Cellular	7/15/97	7/23/97	\$100	\$50 (no previous violation)

Mr. Mackenzie then moved, and it was seconded and voted, that the case of Kevin Gordon, lobbyist for Acadia Insurance Company, be tabled until the next regular meeting.

The Commission also voted to table a staff inquiry on a question of law concerning PAC registration requirements.



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At 1: 10, the members adjourned to Room B8 of the State Office Building to view a software demonstration presented by Mr. Tony Raymond of the Center for Responsive Politics. The demonstration was followed by a brief question and answer period.

At noon, Chairman Webster moved, and it was seconded and voted, that the Commission adjourn.

Respectfully submitted,

Marilyn Canavan  
Director